

REMARKS

Claims 1, 4, 6-10, 13, 15-21 and 23-26 are pending in this application. By this Amendment, claims 1 and 10 are amended. No new matter is added. Reconsideration of the present application based on the above amendments and the following remarks is respectfully requested.

Entry of the amendments is proper under 37 CFR §1.116 because the amendments:

(a) place the application in condition for allowance for the reasons discussed herein; (b) do not raise any new issue requiring further search and/or consideration because the amendments amplify issues previously discussed throughout prosecution and merely amend the claims for clarity to avoid possible ambiguity or antecedence problems and to consistently use the same terminology (thus the claims conform to previously argued distinctions); and (c) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection and eliminate potential ambiguities. Entry of the amendments is thus respectfully requested.

I. The Claims Define Allowable Subject Matter

Claims 1-4, 6-13, 15-21 and 23-26 are rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 5,546,191 to Hibi et al. in view of U.S. Patent No. 4,963,995 to Lang. This rejection is respectfully traversed.

As discussed above, claims 1 and 10 are amended for consistency and clarity. No new matter is added.

As repeatedly argued, none of the applied art teaches, discloses or suggests a playback system for replaying a first indexed recording that allows simultaneous recording of the activity while replaying the first indexed recording, and a recording system that records the

activity and allows the previously indexed recording (first indexed recording) to be re-recorded and inserted in a current second indexed recording, as recited in claim 1 and similarly claimed in claim 10. Thus, consistent with Applicants' Fig. 6 and page 5, lines 8-14, the recited playback system and method "allows simultaneous recording of the activity and playback of the recording, so that activity participants may review a previously recorded and indexed activity while that review is simultaneously being recorded and indexed to the correct index."

The Examiner admits that Hibi does not disclose the features discussed above. However, the Examiner asserts that Lang discloses these features. Applicants respectfully disagree.

At best, Lang teaches that editing and replay can occur while recording. However, these are discrete activities. Nowhere in Lang is there any teaching or suggestion that would have enabled one of ordinary skill in the art to modify Hibi so that the indexed recording that is being replayed or edited is re-recorded simultaneously and indexed to the current second indexed recording, such as that performed in Applicants' Fig. 6 and recited in independent claims 1 and 10.

Additionally, Applicants respectfully submit that only the present application suggests the claimed combination of features. As such, the asserted combination of Hibi and Lang was made using improper hindsight reconstruction of the references. However, even if combined, the combination fails to teach each and every feature of independent claims 1 and 10.

Accordingly, claims 1 and 10 define over Lang and Hibi.

Accordingly, withdrawal of the rejection of the claims under 35 U.S.C. §103(a) is respectfully requested.

II. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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